

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DANYELL THOMAS, RASHAUN F. FRAZER,
ANDRAE WHALEY and ELENI MIGLIS,
individually and on behalf of all other employees
similarly situated

Plaintiffs

v. : Civil Action No. 16-cv-8160
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BED BATH AND BEYOND, INC. :

Defendant.

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DECLARATION OF CHANTAL DOHERTY

I, CHANTAL DOHERTY, based on my personal knowledge of the facts stated herein, testify by Declaration as follows:

1. I am over the age of 18 and am otherwise competent to testify to the matters contained in this Declaration, and if so called, would testify to the facts below.

2. All of the statements in this Declaration are true and accurate to the best of my knowledge.

3. The facts set forth in this Declaration are based on my own personal knowledge of the particular stores in which I have worked and of the stores that I oversee in my Region.

4. I became employed by Bed Bath and Beyond Inc. ("BBB") in December, 1992, as a Department Manager in Springfield, New Jersey. In 1993, I was promoted to Assistant Store Manager ("ASM") in New Jersey. In September of 1994, I became a Store Manager in Worcester, Massachusetts. Thereafter I was also a Store Manager in Burlington, Massachusetts, Framingham, Massachusetts, and Braintree, Massachusetts. I was eventually promoted to Area

Manager, and then District Manager, and in 2005 I was promoted to Regional Manager for the Northeast region. In my current capacity as Regional Manager, I oversee forty-seven (47) stores ranging in volume from low volume to very high volume. I oversee five (5) District Managers and two (2) Area Managers. My stores are primarily in Massachusetts, Vermont, New Hampshire, Rhode Island, and Maine. I also have responsibility for one store in Connecticut and one store in upstate New York.

5. When I was an Assistant Store Manager, I worked in Store 1 in Springfield, New Jersey and was responsible for managing both Department Managers and hourly Associates.

6. In my previous role as an Assistant Store Manager, my responsibilities included directing the daily activities of Department Managers and hourly Associates; training and developing associates; interviewing and hiring employees; counseling, disciplining, issuing warnings, and assisting in terminating Associates when appropriate.

7. Typically, a BBB Regional Manager oversees District Managers and Area Managers in the Region. A BBB District Manager has responsibility for a number of stores in a particular geographic area. Reporting to the District Manager are Store Managers, each of whom is responsible for a single store. The Store Managers, in turn, have Assistant Store Managers reporting to them. In the Northeast region that I oversee, each store has between one (1) and four (4) Assistant Store Managers. Each store has between one (1) and seven (7) Department Managers who report to the Assistant Store Managers. Assistant Store Managers supervise Department Managers and other hourly associates. The number of hourly Associates varies greatly from store to store, with the lower volume stores having fewer than twenty (20) and higher volume stores having upwards of sixty (60).

8. There are two types of ASMs at BBB: Operations Managers and Merchandise Assistant Managers. All ASMs at BBB in the Northeast Region are classified as exempt employees.

9. Both Operations Managers and Merchandise Assistant Managers are expected to do primarily exempt work. The responsibilities required of an ASM vary as a result of a number of factors.

10. One of these factors is store volume. While their exempt responsibilities remain the same, their individual experience varies.

11. Similarly, local management and the Store Manager of each store affect an ASM's experience.

12. The type of ASM (Operations vs. Merchandise Assistant) has an impact on their day-to-day exempt responsibilities. While both types of ASMs are responsible for managing the Department Managers and Store Associates who report to them, Operations Managers generally supervise more employees than Merchandise Assistant Managers and in different ways. For example, Operations ASMs have responsibility for scheduling and payroll and thus by virtue of that role, manage Associates' scheduling conflicts or requests for time off.

13. An ASMs' duties are also affected by the Store Manager's management style. If a Store Manager is an effective delegator, an ASM will have more managerial tasks to perform and will also be more likely to learn to delegate similarly. If a Store Manager to whom an ASM reports is a micromanager, then the ASM may, in turn, micromanage his or her Associates.

14. The personality of each ASM also plays a role, as some ASMs prefer to do some operational tasks themselves, whereas others delegate more tasks. In my stores, we ask ASMs to do something we call "captainship" where each ASM is responsible for a business—such as

wedding, “beyond” stores on BBB’s website, mobile, and others. As “captains” of their business, ASMs are responsible for motivating, training, and supervising staff to drive sales of their business, such as by organizing a contest to see which employee can generate the most sales. ASMs have a high degree of autonomy when it comes to being a “captain”—and some ASMs are better at delegating tasks relating to their business than others.

15. Store volume also has an impact. Stores that do not conduct as much business, or stores that are heavily influenced by market seasonality, affect ASMs’ exempt responsibilities because their stores do not employ as many Associates, and as a result, there are not as many Associates to delegate to.

16. In certain markets, BBB receives fewer employment applications than in other areas. For example, certain towns in Vermont have a high ratio of retailers vs. local consumers, so there are typically fewer applicants throughout the year. Exempt duties such as reviewing applications, conducting interviews, and offering employment to applicants consumes more of an ASM’s time in a store with a high applicant flow. Applicant flow is independent from whether a store is a high or low volume store. While more positions need to be filled in a high volume store, some lower volume stores have very high applicant flows and, as a result, reviewing resumés or interviewing candidates becomes a time consuming endeavor, even if the number of individuals ultimately hired is less than in a high volume store. If applicant flow is *too* low, on the other hand, hiring can still be a difficult and time consuming process, because ASMs are expected to ensure that vacant positions are filled.

17. Additionally, ASMs are designated as the “Manager on Duty,” (“MOD”) which affords them an opportunity to assume extra exempt responsibilities. Serving as the MOD means that the person designated as MOD is the decision maker for the store, managing service levels,

safety, applicant flow and other areas. In a low volume store, ASMs may be required to be MOD more frequently than in a high volume store. The variation in ASMs acting as the MOD is also based on the decision-making of the Store Manager, who is responsible for designating these roles on a day to day basis. In addition, in a store with fewer supervisors, ASMs serve as MOD on a more frequent basis than in stores with a higher number of supervisory positions.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of April 2017.

By: Chantal Doherty
Chantal Doherty
Regional Manager
Bed Bath and Beyond Inc.